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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/789,388

02/28/2004

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DC1-001

4950

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10/26/2009

EXAMINER

KAYES, SEAN PHILLIP

ART UNIT

PAPER NUMBER

2833

MAIL DATE

DELIVERY MODE

10/26/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/789,388	Applicant(s) KALLESTAD, JOHN P.	
	Examiner SEAN KAYES	Art Unit 2833	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The previous action mailed 5/1/2009 was intended to have been made FINAL - see item 15 of the action. Due to the lack of clarity on the summary form USPTO-326 the previous action is being treated as though it were non-final - see item "2b" page 1 of the action dated 5/1/2009.

This current action is made FINAL.

2. Applicant's amendments 9/8/2008 and 8/7/2009 necessitate the new ground(s) of rejection (relative to that stated in the action 1/27/2006) presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Elberg (US 2741082).

5. With respect to claim 1 Elberg discloses a clock comprising

- a first hand (18 figure 6) to indicate day of the week, the first hand mounted on a first shaft (36 figure 6) and driven by a first day gear (30) and a third day gear (35), and
- a second hand (19 – column 10 line 13) to indicate hour, the second hand mounted on a second shaft (29), a third hand (20 – col. 10 line 13) to indicate minutes, the third hand mounted on a third shaft (48), the first hand, second hand, and third hand sharing a common axis of rotation, the first shaft and second shaft being concentric with respect to each other (figure 1 and 6), wherein the third day gear provides one revolution to the first day gear for each 14 rotations of the second hand (*1 – see discussion provided below) , and a second day gear (26 or 28) provides manual adjustment to the first hand (*2 – see below).

Art Unit: 2833

(*1) - 31 and 42 rotate once per day so as to adjust the day wheel and indicator (35 and 18). 30 rotates twice per day according to the drive operation of hour hand 19. The day indicator 18 corresponds to seven days a week (Sun.-Sat.). Accordingly, the day wheel rotates 14 times relative to a full rotation of the hour wheel. Fourteen equals seven times two.

(*2) - Knob 95 allows for manual operation of the drive gears. 95 drives 26. 26 drives 28. 28 is coaxial and drives 28a by axial attachment. 28a drives 27. 27 drives 30 by axial attachment. 30 drives 31. See figure 6.

6. With respect to claim 7 Elberg discloses the clock of claim 1 further comprising means (74, 91, 95 figure 2; 21 figure 16) for adjusting time indicated by said clock.

7. With respect to claim 8 Elberg discloses the clock of claim 1 wherein said adjustment means comprises at least one knob (74, 91, 95 figure 2; 21 figure 16).

8. With respect to claim 9 Elberg discloses the clock of claim 1 wherein said adjustment means comprises at least one knob (95) to adjust said first hand (20).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2833

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elberg (US 2741082) in view of Komiyama (US 5062090).

11. With regard to claim 5 Elberg does not teach a quartz oscillation.

Quartz oscillation time bases are notoriously well known. Komiyama teaches such a battery powered quartz time base. At the time of the invention it would have been obvious to one having ordinary skill in the art to utilize a quartz time base in Elberg's device. The reason for doing so would have been to utilize a reliable inexpensive time source to form the timing signal of the device, as taught by Komiyama.

12. With regard to claim 6 Elberg does not teach battery power.

Komiyama teaches such a battery powered quartz time base. At the time of the invention it would have been obvious to one having ordinary skill in the art to provide Elberg's device with a battery powered quartz time base as taught by Komiyama. The reason for doing so would have been to utilize a reliable inexpensive time source to form the timing signal of the device, as taught by Komiyama.

Response to Arguments

13. Applicant's arguments filed 8/7/2009 have been fully considered but they are not persuasive.

Art Unit: 2833

14. Applicant contests that reference numerals 27 and 28 are not discussed in the disclosure of the invention section of Elberg. This argument is not persuasive. The gears and corresponding meshing is shown in at least figure 6. The functions and temporal relationships between the display indicators is well established in the reference, i.e. the hour hand indicates units of hours and rotates once between intervals per hour. The relationship of fourteen rotations relative to another merely corresponds to the relationship between a 12-hour dial an hour indicator and a day of the week indicator. There are two rotations of an hour hand per 24 hour day around a 12 hour dial. See numerals "1" through "12" figure 1 and corresponding hour hand. There are seven days per week. See "Sunday" through "Saturday" figure 1. Fourteen rotations of the hour hand would correspond to one rotation of the day indicator. This relationship is inherent to the disclosed structure and functions taught by Elberg.

Conclusion

15. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2833

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SEAN KAYES whose telephone number is (571) 272-8931. The examiner can normally be reached on 11:00am to 9:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on (571) 272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SK
10/21/2009

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